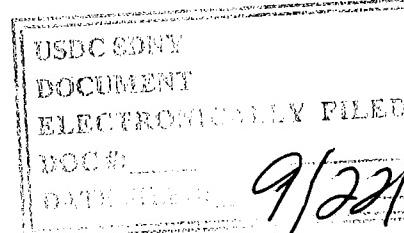


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATHERINE PEPE, PATRICIA DONADIO, :
JUNE VONDERCHEK, and JOSEPH :
SANDERS on behalf of themselves and all :
others similarly situated, :
Plaintiffs, :
v. :
4E BRAND NORTH AMERICA, LLC, :
Defendant. :
-----x



ORDER

20 CV 6494 (VB)

Defendant having moved to dismiss the consolidated class action complaint pursuant to Rule 12(b)(6) (Doc. #24), it is HEREBY ORDERED:

1. Defendant's motion is **GRANTED IN PART** and **DENIED IN PART**.

Specifically, plaintiffs Pepe, Donadio, and Vonderchek's claims for breach of express warranty and violations of New York's General Business Law §§ 349 and 350, shall proceed. Plaintiff Sanders's claims for breach of express warranty, breach of implied warranty of fitness and merchantability, and violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56: 8-1 *et seq.*, may also proceed. All other claims are dismissed.

2. By October 6, 2021, defendant shall file an answer.

3. A telephone conference is scheduled for October 22, 2021, at 2:30 p.m., at which time the Court will issue a bench ruling explaining the basis for its decision. This conference shall also serve as an initial conference in this matter. All counsel shall use the following information to connect by telephone:

Dial-In Number: (888) 363-4749 (toll free) or (215) 446-3662
Access Code: 1703567

4. By October 15, 2021, counsel shall file on the ECF docket their proposed Civil Case Discovery Plan and Scheduling Order, a blank copy of which will be attached to the Notice of Initial Conference. The Notice will be separately docketed.

5. The Clerk is instructed to terminate the motion. (Doc. #24).

Dated: September 22, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vince Briccetti".

Vincent L. Briccetti
United States District Judge